

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JEANETTE VENTRONE, ANGELA WILLIAMS,)	
PHOENIX PEREIRA, RAMEAK SMITH, APRIL)	
MOORE, and ASHLEE BACON CANTRELL,)	Case No. 4:22-cv-00513-SPM
)	
Plaintiffs,)	
)	
v.)	
)	
WEBSTER UNIVERSITY,)	
)	
Defendant.)	

**VERIFIED MOTION TO REMAND WITH INCORPORATED
MEMORANDUM OF LAW**

COME NOW Plaintiffs, Jeanette Ventrone, Angela Williams, Phoenix Pereira, Rameak Smith, April Moore, and Ashlee Cantrell, and move the Court to remand this case to the Circuit Court for St. Louis County, Missouri, with incorporated memorandum of law, pursuant to 28 U.S.C. §1447(c) and 28 U.S.C. §1441(b)(2), as follows:

1. The Notice of Removal is based on complete diversity of citizenship under 28 U.S.C. §1332(a). Defendant admits, in paragraph 5 of the Notice of Removal, that it “is thereby a citizen of the State of Missouri.”

2. 28 U.S.C. §1441(b)(2) provides that a civil action otherwise removable solely on the basis of the jurisdiction under §1332(a) “may not be removed if any of the parties in interest properly joined and served as Defendants is a citizen of the state in which such action is brought.”

3. 28 U.S.C. §1441(b)(2) is known as the forum-defendant rule.

4. The United States Court of Appeals for the Eighth Circuit recently addressed the issue of whether 28 U.S.C. §1441(b)(2) was a jurisdictional statute, which could be raised at any time, or whether it was a non-jurisdictional statute, meaning the Motion to Remand under 28 U.S.C. §1441(b)(2) must be made within 30 days after removal under 28 U.S.C. §1447(c). See *Holbein v. TAW Enterprises, Inc.*, 983 F. 3d 1049, 1055-56 (8th Cir., 2020). *Holbein v. TAW Enterprises, Inc.* recognized the forum-defendant rule, stating that it is a privilege granted to the Plaintiff preserving the Plaintiff's choice of a state forum when one of the Defendants is a citizen of that state. *Id.*

5. In the case at bar the timeliness of the Motion to Remand is not at issue. This case was not removable and must be remanded under 28 U.S.C. §1447(c) and 28 U.S.C. §1441(b)(2).

6. Plaintiffs have incurred attorney's fees in researching the law and drafting and filling the Motion to Remand in the sum of \$900, covering three hours of attorney time at the rate of \$300 per hour. Plaintiffs are entitled to recover these attorney's fees from the Defendant, under 28 U.S.C. §1447(c), because the most rudimentary research would have revealed that this case was not removable to the federal court.

7. The Affidavit of Plaintiffs' attorney is attached hereto and incorporated hereto as Exhibit A.

WHEREFORE, Plaintiffs, Jeanette Ventrone, Angela Williams, Phoenix Pereira, Rameak Smith, April Moore, and Ashlee Cantrell move the Court to

remand this case to the Circuit Court for St. Louis County, Missouri, pursuant to 28 U.S.C. § 1447(c) and 28 U.S.C. § 1441(b)(2) and for the award of Plaintiffs' attorney's fees in the sum of \$900.

/s/ David M. Duree
David M. Duree, MBE 21003
David M. Duree & Associates, P.C.
312 South Lincoln Avenue
O'Fallon, IL 62269
(T) 618.628.0186/(F) 618.628.0259
Email: law@dmduree.net
Attorneys for Plaintiffs, Jeanette Ventrone, Angela Williams, Phoenix Pereira, Rameak Smith, April Moore, and Ashlee Cantrell

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and accurate copy of the foregoing was filed electronically with the Clerk of this Court, the Clerk will electronically serve all parties of Record, and a copy was served via email, this 11th day of May, 2022, on the following:

tkearbey@atllp.com
Travis R. Kearbey
Armstrong Teasdale LLP
7700 Forsyth Blvd., Suite 1800
St. Louis, MO 63105
Attorney for Defendant

/s/ David M. Duree
David M. Duree, MBE 21003
David M. Duree & Associates, P.C.